

From: Warren Havens <warren.havens@sbcglobal.net>
To: Shirley Thomas <SThomas@dart.org>
Cc: jstobaugh@telesaurus.com
Sent: Fri, November 12, 2010 12:39:45 AM
Subject: Fw: 220 MHz Spectrum Acquisition Inquiry

I amend here some language below, and forgot an item and added it this time.

Also, I am sending this now since I will be mostly out today, Friday, and you asked for a response by today.

While making a market, and any actual government contract RFP (as opposed to a information request) involve far more than a few days, we are happy to respond to the degree we can in that timeframe.

I also add our GM, Jimmy Stobaugh to this email.

Feel free to give him or me a call if you would like to discuss.
Numbers are listed below my name below.

----- Forwarded Message -----

From: Warren Havens <warren.havens@sbcglobal.net>
To: Shirley Thomas <SThomas@dart.org>
Sent: Fri, November 12, 2010 12:22:27 AM
Subject: Re: 220 MHz Spectrum Acquisition Inquiry

Ms. Thomas.

Our offer (for discussion purposes only, not an offer bidding on acceptance) --

(A) No cost for spectrum in the lower ranges of what you seek if, in an assignment agreement:

(1) DART represents, and we agree to certain terms, as to DART use the spectrum for a bona fide Intelligent Transportation Systems function or functions (PTC may fit this, at least genuine PTC, not PTC as a device for other purposes),

(2) We get rights to certain non-cash consideration. That would not take much DART time or resources (and it may want to do this anyway since we and our experts would contribute value) and would be within what most experts in ITS at the higher levels find valuable to advance ITS for both your metro area and the nation.

(B) On the same basis as A, we may assign 2x or more of LMS spectrum (in the FCC wide-area ITS radio service, Multilateration LMS). It is good for higher speed data to trains, especially in urban areas. A world class technology and equipment is available (actually, two), shown to work very well on trains up to very high speeds. This can be used along with the 200 MHz. It is a good idea to upgrade or build new wireless using sufficient spectrum for all of the voice and data applications needed.

That is what I can offer in a short deadline, and also that I have no problem being fully public.

We will be making the same offer to other US metro railroads soon, and seek one or possible two who are interested at this time. I give you a two-day deadline (just kidding).

Why we are interested in this and can make such offers is reflected in the documents, in the various ITS and Tech related Folders in the Scribd link below: the one below my closing name and list of companies below.

I generally understand your comment on the public nature of (at least some) documents held by DART, being a public agency. We have a consultant engaged in federal and state FOIA requests to obtain public records from government entities dealing with wireless, including railroads and PTC, and including in our lower 200 and lower 900 MHz bands. FRA is sending us the documents next week, it stated to me this week, and we hope to get docs from FTA soon, then from metro railroads including DART.

With regard to MCLM AMTS spectrum, Spectrum Bridge informed me that it will not inform parties it solicits to buy this spectrum of the legal claims against the spectrum and MCLM, at least not until some point: obviously, a contract has reps and warranties, and legal-proceeding claims have to be disclosed (to not be fraudulent). As for MCLM, the reason the FCC Enforcement Bureau (EB) stated that they are investigating MCLM and its owners, the Depriests, and the reason a half dozen major credits obtained court judgements still pending against them, includes that they misrepresent to get funds: that is shown over and over. It is all in easily accessible public documents. My point is that if you rely on Spectrum Bridge and MCLM for disclosures of claims against MCLM and its AMTS license that includes your area, you may not obtain full or accurate information. You can of course do your own due diligence.

In this regard, claims against MCLM and this license are in part reflected on the FCC ULS system under this license. That should include at least two of the major proceedings. There is another person in our companies more fully aware than I am: if you have interest, I could have him give you details of this and above paragraph. But I believe that, in addition what is on US, there are the following cases involving our companies as plaintiff/ petitioners and MCLM as the main respondent which also effectively challenge the subject license (among other things): a case before the DC Circuit Court, one before the 9th Circuit Court, one before the FCC filed last month. The above-noted EB action is another proceeding (under Sections 308 and 312 of the Communications Act) that also may result in revocation of the subject license, and which I believe also is not reflected on ULS (except for mention in some of our pleadings).

Proceedings noted in the following Internet link may also contain current claims to and against the subject license: <http://www.scribd.com/doc/36514605/Donald-and-Sandra-Depriest-MCLM-Etc-FCC-courts-www>. Since the document at that link was prepared some months ago, there have been a number of additional court cases and some judgements against MCLM and Depriests, the most recent for several million dollars by default: Depriest and his company did not appear at all, and could not be located for service. If his FCC licenses and licenses-based-companies were legitimate, he would and could defend him, it seems to me. Also see results by Googling: "scribd depriest mclm court"

Because my companies were the lawful high bidders for the AMTS spectrum MCLM obtained in Auction 61 by disqualifying rule violations (we provide the facts and law on that in multiple proceedings indicated above, all public), we defend our claim when MCLM assigns any of that spectrum by challenges to that before the FCC. That is also clear in FCC proceedings. Spectrum that is not valid under law, cannot be laundered by assignment even if to an entity with clearly meritorious purposes who did not take part in wrongdoing underlying the invalidity. See *FCC v. WOKO*. 329 U.S. 223; 67 S. Ct. 213; 91 L. Ed. 204; 1946 U.S. LEXIS 3147 (1946), and *In re Applications of Harry Wallerstein*. 1 F.C.C.2d 91; 1965 FCC LEXIS 390; 5 Rad. Reg. 2d (P & F) 811. July 28, 1965. We believe that laundering itself is taking part in the wrongdoing where the facts of the wrongdoing and the applicable law are clear, as would be clear upon proper due diligence in FCC spectrum assignments by MCLM.

Regards

Warren Havens

President
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Environmental LLC
Verde Systems LLC
Telesaurus Holdings GB LLC
Intelligent Transportation & Monitoring Wireless LLC
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From: Shirley Thomas <SThomas@dart.org>

To: warren.havens@sbcglobal.net

Sent: Wed, November 10, 2010 2:05:05 PM

Subject: 220 MHz Spectrum Acquisition Inquiry

Mr. Havens, on behalf of Dallas Area Rapid Transit (DART), I am requesting that you provide DART with prices for the possible acquisition of the following amounts of AMTS spectrum for use throughout and up to the outer boundaries of Dallas, Tarrant, Collin and Denton Counties in Texas:

175 kHz

250 kHz

500 kHz

700 kHz

750 kHz

1MHz

[175 kHz is sufficient. Even that not needed for the very low data capacity of PTC. It needs coverage but the total data traffic is very low. - W. Havens]

I understand that you require a non-disclosure agreement. As you may know, public entities like DART are required to maintain their records as public records. Although DART could agree not to voluntarily disclose information received from you, if copies of documents containing information of any sort are requested by a member of the public, DART would have to send those documents to the Texas Attorney General for a determination as to whether the documents have to be made public or whether an exception would allow the documents to be withheld. At the time such a letter is sent to the Attorney General, you would be notified that you have an opportunity to communicate directly with the Attorney General to present your reasons as to why the documents should be exempt from disclosure.

Although I understand that there are issues that will require negotiation, DART is anxious to take an acquisition of 220 spectrum to its Board for approval in early December. Therefore, we are requesting that, if you are interested in selling this spectrum to DART, you provide me with firm prices for the above-listed spectrum **no later than 5:00 p.m. Central Time on Friday, November 12, 2010.**

Thank you for your consideration.

Shirley Thomas
Senior Assistant General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
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Dallas, Texas 75266-7255
214-749-3176
214-749-3660 fax

[2-day response time. As I noted in response, this is not a bona fide RPF. DART has some other purpose here. I still offered spectrum at no-cash cost. I got no response at all. - W. Havens]